

1 Margaret A. McLetchie, Bar No. 10931
2 Allen Lichtenstein, Bar No. 3992
3 Lee Rowland, Bar No. 10209
4 ACLU OF NEVADA
5 732 S. Sixth Street, Suite 200A
6 Las Vegas, NV 89101
7 (702) 366-1902
8 mcletchie@aclunv.org
9 alichensteinlaw@aol.com
10 rowland@aclunv.org

11 Amy Fettig (*pro hac vice*)
12 Margaret Winter (*pro hac vice*)
13 THE NATIONAL PRISON PROJECT
14 OF THE ACLU FOUNDATION, INC.
15 915 15th St. N.W. 7th Fl.
16 Washington, D.C. 20005
17 Tel. (202) 393-4930
18 afettig@npp-aclu.org
19 mwinter@npp-aclu.org

20 Stephen F. Hanlon (*pro hac vice*)
21 HOLLAND & KNIGHT, LLP
22 2099 Pennsylvania Avenue, N.W.
23 Washington, D.C. 20006
24 Tel. (202) 955-3000
25 shanlon@hklaw.com

26 Attorneys for Plaintiffs and Putative Class

27 CATHERINE CORTEZ MASTO
28 Attorney General
JANET E. TRAUT
Senior Deputy Attorney General
Nevada Bar No. 8695
Bureau of Public Affairs
Public Safety Division
100 No. Carson St.
Carson City, NV 89701-4717
Tel: 775-684-1254

Attorneys for Defendants James Gibbons,
Ross Miller, Catherine Cortez Masto,
Howard Skolnik, Robert Bannister,
and E.K. McDaniel

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DAVID RIKER, ROGER LIBBY, TERRENCE
BROTHERS, JEFFREY HOSMER, MARK
WHITTINGTON on their own behalf and on behalf of
those similarly situated,

Plaintiffs,

v.

JAMES GIBBONS, Governor of Nevada; ROSS
MILLER, Secretary of State of Nevada; CATHERINE
CORTEZ MASTO, Attorney General of Nevada;
HOWARD SKOLNIK, Director, Nevada Department of
Corrections; ROBERT BANNISTER, Medical Director,
Nevada Department of Corrections; and E.K.
MCDANIEL, Warden, Ely State Prison,

Defendants.

CASE NO. 3:08-CV-115-LRH-VPC

**JOINT MOTION FOR
EXTENSION OF TIME FOR
LEAVE TO FILE PROPOSED
SCHEDULING ORDER; ORDER**

Plaintiffs DAVID RIKER, ROGER LIBBY, TERRENCE BROTHERS, JEFFREY
HOSMER, MARK WHITTINGTON and Defendants JAMES GIBBONS, Governor of Nevada;
ROSS MILLER, Secretary of State of Nevada; CATHERINE CORTEZ MASTO, Attorney
General of Nevada; HOWARD SKOLNIK, Director, Nevada Department of Corrections;
ROBERT BANNISTER, Medical Director, Nevada Department of Corrections; and E.K.
MCDANIEL, Warden, Ely State Prison, hereby jointly request an extension of time to file the
26(f) report until thirty (30) days after the court's ruling on the class certification.

Plaintiffs filed their Motion to Certify Class, ("the Motion") on March 11, 2008, and
Defendants filed their Response to said Motion on May 15, 2008. On May 29, 2008 Plaintiffs
filed their Reply to Defendants' Response and have yet to receive an Order regarding the
Motion. Given that the parties do not know whether a class will be certified, extending the
deadline for the discovery conference and report until after the Court rules will help streamline

1 the discovery process, as the parties anticipate different scheduling proposals depending on
2 whether the class is certified in this case.

3
4 The Proposed Scheduling Order for any prisoners' rights Section 1983 case is due under
5 the Rules within 30 days after Defendants' first Answer (May 15, 2008, Docket #22), which in
6 this case would have passed on June 14, 2008. Local Rule 16-1(b). The parties have not yet
7 engaged in a meaningful scheduling discussion, due to the pending motion for class certification.
8 Attorneys for both sides agree that setting a schedule in the case is premature without knowing
9 whether the case will be a Class Action.

10
11 Local Rule 26-2 specifies that whenever a discovery plan is not required to be filed (such
12 as in this case as a Section 1983 prisoners' rights case per Local Rule 16-1(b)), that discovery
13 will by default conclude 180 days after an Answer is filed, which in this case would be
14 November 15, 2008. However, the parties anticipate stipulating to a longer schedule, with the
15 Court's approval, once they receive the Court's ruling on the class certification Motion. As such,
16 the parties hereby request leave to file a Proposed Scheduling Order within 30 days of this
17 Court's Order on the class certification Motion, which will include a discovery period beyond
18 the default 180 days specified in Local Rule 26-2.

19
20 This is Plaintiff's first request to extend time and no previous extension has been
21 requested to file a scheduling order in this case, and this Motion is not made for improper
22 purpose or delay.

23
24
25 DATED this __24__ day of October, 2008.

26
27 LEE ROWLAND, ESQ
28 ACLU of Nevada

CATHERINE CORTEZ MASTO

Attorney General

1
2 /s/
3 Allen Lichtenstein, Bar No. 3992
4 Lee Rowland, Bar No. 10209
5 Margaret McLetchie, Bar No. 10931
6 **ACLU OF NEVADA**
7 732 S. Sixth Street, Suite 200A
8 Las Vegas, NV 89101
9 (702) 366-1902
10 mcletchie@aclunv.org
11 Attorneys for Plaintiffs

By: /s/
JANET E. TRAUT
Senior Deputy Attorney General
Bureau of Public Affairs
Public Safety Division

Attorneys for Defendants

AMY FETTIG

9
10 /s/
11 Amy Fettig (*pro hac vice*)
12 Margaret Winter (*pro hac vice*)
13 THE NATIONAL PRISON PROJECT
14 OF THE ACLU FOUNDATION, INC.
15 915 15th St. N.W. 7th Fl.
16 Washington, D.C. 20005
17 afettig@npp-aclu.org
18 mwinter@npp-aclu.org

17 **ORDER**

19 IT IS SO ORDERED.

20 DATED this 27th day of October, 2008.



23 LARRY R. HICKS
24 UNITED STATES DISTRICT JUDGE